

REMARKS/ARGUMENTS

In the Office Action dated October 16, 2009 (hereinafter, "Office Action"), claims 1-2 and 4-18 were rejected under 35 U.S.C. § 103(a). By this paper, claims 1, 10 and 15 are being amended. Applicants respectfully respond to the Office Action.

I. Claims 1-2 and 4-18 Rejected Under 35 U.S.C. § 103(a)

Claims 1-2 and 4-18 stand rejected under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,418,449 to Chen et al. (hereinafter, "Chen") in view of U.S. Patent No. 6,920,555 to Peters et al. (hereinafter, "Peters"). Applicants respectfully request reconsideration in view of the above claim amendments and the following remarks.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)).

Claim 1 is being amended to recite "using an imaging tool to read the image from the computer system by making read calls to a temporary file system and write the image to the hard drive of the computer system through the use of the temporary file system." Support for this claimed subject matter is found throughout the originally-filed application including at paragraphs [49], [50] and [60] as well as Figure 6. Applicants submit that such claimed subject matter is not taught or suggested by the cited references.

With respect to Peters, the Office Action has not cited to any portion of Peters that would allegedly teach or suggest a "temporary file system [that] is not the file system of the hard drive," or that "an imaging tool ... mak[es] read calls to [the] temporary file system." Applicants cannot also

find any teaching or suggestion in Peters of this claimed subject matter. Accordingly, such claimed subject matter is not taught or suggested by Peters.

With respect to Chen, Applicants submit that this reference fails to teach or suggest the claimed subject matter that “the temporary file system is not the file system of the hard drive” and that the imaging tool “mak[es] read calls to a temporary file system” and writes “the image to the hard drive of the computer system through the use of the temporary file system.” The Office Action indicates that Chen’s teaching of a “bitmap file 1” being compressed into an image file 3 and then cloned to the “Object Partition 4” satisfies the claimed subject matter regarding writing an image to the hard drive. (Office Action, pages 3-4.) As best understood, the Office Action indicates that the “bitmap file” is “stored in a Temporary File in the Object Partition where ... the image [is written],” and as such, there is a temporary file system and an imaging tool that “writes the image to the hard drive of the computer system such that the imaging tool accesses the image from the same partition of the hard drive as to which the imaging tool is writing the image.” (Id.)

To the extent that the Office Action’s interpretation of Chen is correct, Chen still fails to teach the subject matter of amended claim 1. For example, the Office Action has failed to identify any structural feature in Chen that would allegedly constitute the claimed “temporary file system.” Chen discloses that the “Bitmap file is read in and stored in a Temporary File in Buffer (505).” (Chen, col. 3, lines 15-17.) Such a teaching relates to using a “temporary file in a buffer” to store a bitmap file, and does not teach or suggest a “temporary file system.” The bitmap file in the temporary file in a buffer would best constitute the claimed “image,” but not a temporary file system. The Office Action seems to be equating the storing of the image in the buffer with the temporary file system; however, as shown by claim 1, these are distinct elements. Even if it is assumed that the “temporary file in buffer (505)” was part of a larger “temporary file system,” there is no indication how this supposed “temporary file system” “is not the file system of the hard drive,” as recited in claim 1. Accordingly, Applicants cannot find any indication of a temporary file system as required by claim 1.

Further, amended claim 1 indicates that the imaging tool “mak[es] read calls” to “the temporary file system” and writes “the image to the hard drive... through the use of the temporary file system.” As noted above, the Office Action is apparently suggesting that the Temporary File in the buffer that is used to store the bitmap file 1 constitutes or is part of the claimed “temporary file system.” However, Chen’s temporary file in the buffer does not do what the “temporary file system” of claim 1 does. There is no suggestion in Chen that the temporary file in the buffer receives read calls, as required by claim 1. Likewise, there is no teaching in Chen that this temporary file in a buffer somehow operates to write the image data to the hard drive. Rather, Chen’s Bitmap file 1 only contains image data. Thus, Chen fails to teach or suggest the subject matter of amended claim 1.

For at least the foregoing reasons, Applicants respectfully submit that amended claim 1 is allowable. Claims 2 and 4-9 depend from claim 1, and are therefore allowable for at least the same reasons as claim 1.

Amended claims 10 and 15 recite “the image is read from the computer system by the imaging tool making read calls to a temporary file system and the image is written to the hard drive of the computer system through the use of the temporary file system.” As discussed above, the combination of Chen and Peters does not teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that amended claims 10 and 15 are allowable. Claims 11-14 depend from claim 10, and are therefore allowable for at least the same reasons as claim 10. Claims 16-18 depend from claim 15, and are therefore allowable for at least the same reasons as claim 15.

II. Conclusion

In view of the foregoing, Applicants respectfully submit that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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